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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,380	04/04/2001	Carl-Eric Ohlson	1166/61926-A	7391

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EXAMINER

HO, ALLEN C

ART UNIT

PAPER NUMBER

2882

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A7

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/827,380	OHLSON, CARL-ERIC	
	Examiner	Art Unit	
	Allen C. Ho	2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 05 March 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 20-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 April 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 05 March 2003 is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. 08/776,392.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<ol style="list-style-type: none"> <li>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____</li> </ol>	<ol style="list-style-type: none"> <li>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____</li> <li>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6) <input type="checkbox"/> Other: _____</li> </ol>
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## **DETAILED ACTION**

### *Reissue Applications*

1. The reissue oath/declaration filed with this application is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

Specifically, applicant has relied upon the error stated in the oath/declaration which is the same as the error relied upon in the parent reissue application and therefore does not meet the requirement of stating a new and different error with regards to the defectiveness of the patent.

2. Claims 20-24 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action.

### *Drawings*

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 05 March 2003 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of an x-ray source disposed under the table. Furthermore, structural elements (7-12, 20, 24, and 26) necessary for supporting the receptor unit have been removed. These structural elements are essential for the

understanding of the operation of the receptor unit. Without these structure elements, the proposed new figure illustrates a broader embodiment than was previously disclosed.

*Specification*

4. The amendment filed 04 April 2001 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support for an "under-table tube capable of imaging in a style of below-table tube" as claimed by applicant in light of one of ordinary skill in the art's understanding of an "under-table tube."

5. The amendment filed 05 March 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support for an "below-table tube capable of imaging in a style of below-table tube" as claimed by applicant in light of one of ordinary skill in the art's understanding of an "below-table tube."

Applicant is required to cancel the new matter in the reply to this Office Action.

*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 20, 21, 23, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, applicant argues that the illustration in figure 17 provides support for the claimed limitations of an "under-table tube capable of imaging in a style of under-table tube." However, this argument is not substantiated by the disclosure.

The applicant disclosed a patient support table (1) for use in x-ray imaging. The table supports various positioning of a receptor unit (2). In order to image a patient, an x-ray source (x-ray tube) and a receptor unit must be aligned and positioned on opposite sides of the patient, so that the receptor unit would detect x-rays passing through the patient. The specification disclosed many options for imaging a patient on the bed. One of them is to position the receptor unit beneath the table (Figs. 1 and 12), while the x-ray source irradiates the patient from above. Other options position the receptor unit vertically around the table as shown in Fig. 2, so that different parts of the patient could be imaged. Applicant cites Fig. 17 as support for claimed limitation of an "under-table tube capable of imaging in a style of under-table tube." As is known in the art, "under-table tube imaging in a style of under-table tube" means an imaging arrangement where the x-ray source is positioned under the table for emitting x-rays upwards through the patient and the receptor unit is positioned above the patient for detecting x-rays transmitted through the patient. This imaging style is not possible with the present invention because the receptor unit could not be placed above the patient to detect x-rays transmitted through the patient, but instead the receptor unit is positioned either inside the table or beneath

the table as shown in Figs 1 and 12, respectively. Rather, the support found with regards to figure 17, and any associated disclosure, is drawn towards a "below the plane of the table tube for imaging below the plane of the table." In Fig. 17, the receptor unit is shown to be swung down to a vertical position. The disclosure is silent on where the x-ray source would be positioned, either in front of the receptor unit or behind the receptor unit and under the table. Either way, it would only be possible to image the knees of a standing or sitting patient (column 7, lines 31-35) by irradiating the x-rays horizontally below the plane of the table and not vertically through the patient. Therefore, Fig. 17 fails to support the claimed limitation of an "under-table tube capable of imaging in a style of under-table tube."

The applicant submitted two new claims, claims 23 and 24, which replace "under-table" with "below-table", which are broader than claims 20 and 21 because "below-table" encompasses place under table. Again, there is no support for this style of imaging. Therefore, claims 23 and 24 are also rejected.

#### ***Allowable Subject Matter***

8. Claim 22 would be allowable if rewritten or amended to overcome the rejection(s) under defective reissue oath/declaration under 35 U.S.C. 251, set forth in this Office action.
9. The following is a statement of reasons for the indication of allowable subject matter:

Though the prior art discloses solid state imaging systems for X-ray diagnostics and further including systems wherein an X-ray source is capable of being positioned above a patient and being movable in the x, y and z Cartesian coordinates and being rotatable, it fails to teach or fairly suggest a holding mechanism configured to hold a radiation receptor for electronic image

storage comprising a filmless system such that the radiation receptor is horizontally movable, pivotable on a horizontal axis which crosses the vertical axis and rotatable about an axis which crosses the horizontal axis and is parallel to the detecting plane of the radiation receptor wherein the X-ray beam source comprises an X-ray beam source for selectively imaging a patient from above the table when the patient is lying down on the table and from below the plane of the table when the radiation receptor is below the table.

***Response to Arguments***

10. In response to applicant's argument regarding MPEP 1414(II), third paragraph, the examiner notes that the same error has already been corrected in the parent reissue application 09/590,633. The applicant needs to point out a new error as a basis for filing a new reissue application.

11. The new claim limitation "a below-table tube capable of imaging in a style of below-table tube" still describes an imaging style in which x-rays are irradiated upwards through the patient, and is not supported by the disclosure.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (703) 308-6189. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (703) 308-4858. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0530.

Allen C. Ho  
Examiner  
Art Unit 2882

ACH  
June 30, 2003

  
EDWARD A. GLICK  
~~Supervisory Patent Examiner~~ EXAMINER  
TECHNOLOGY CENTER 2800